

2018

**Travis County Auditor's Office
Review of County Clerk
Court Costs**

**Travis County Auditor's Office
Risk Evaluation & Consulting Division
October 26, 2018**

TRAVIS COUNTY
AUDITOR'S OFFICE

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From: Nicki Riley, CPA
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Date: October 26, 2018

Subject: Court Costs Review

The Risk Evaluation and Consulting (REC) Division of the Travis County Auditor's Office has completed a review of the Travis County Clerk's Office statutory court costs. We conducted our review in accordance with the applicable statutes governing the County Auditor's Office, and those relating to County financial and accounting protocols. As a result of our review, we are providing this report on our findings and recommendations.

SCOPE OF EXAMINATION

The primary objective of this examination was to verify the accuracy of the County Clerk's court cost assessments, including statutory probate, civil, and misdemeanor court costs in effect as of January 1, 2018. Our approach was to review the Clerk's fee assessment tables in FACTS (Fully Automated Court Tracking System) and compare them to the Office of Court Administration's (OCA) County Court Civil Suits and Actions and Misdemeanor Convictions reference tables, as well as to the applicable statutes. Overall, we reviewed 70 probate, 12 mental health, 96 civil, and 103 misdemeanor sets of assessment codes.

EXAMINATION METHODOLOGY

Our work was based on a review of office records and on verbal and written representations from the County Clerk's Office. In regards to the written and verbal representations made by this office, unless otherwise noted in this report, office management maintains that the assertions we relied upon in the examination were correct to the best of their knowledge.

SUMMARY OF FINDINGS

We noted issues in six of the 96 civil court costs tables. Four of these items relate to incorrectly assessed \$15 civil courthouse facility fees.

EXAMINATION TEAM

Lisa Denton, CFE, Senior Auditor

CLOSING

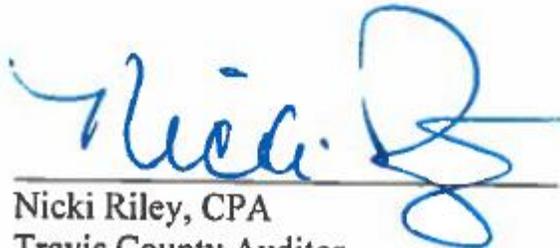
This report is intended solely for the information and use of the County Clerk and the Commissioners' Court. We greatly appreciate the cooperation and assistance received from the management and staff of the Travis County Clerk's Office during this examination. Please contact us if you have any questions or concerns regarding this report.



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Travis County Auditor

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BACKGROUND

The Travis County Clerk maintains the official record of proceedings on all court cases heard in the county courts including probate, mental health, civil, and misdemeanor. The County Clerk also serves as the official record keeper for the Commissioners' Court. This office collects court costs, fees, and fines when a case is filed, a service is requested, or a court judgment is granted.

Probate and Mental Health

The Probate Division issues citations, writs of execution, abstracts of judgment, letters of guardianship, letters testamentary, protective orders, notices, and other documents as required by law or requested by customers. The probate court hears cases associated with the wills of deceased persons, guardianships for minors and incapacitated persons, mental health matters, and eminent domain cases. The probate court also has jurisdiction to hear lawsuits related to an estate of a decedent or ward as well as actions by or against a personal representative of a decedent's or ward's estate.

Civil

The Civil Division receives filings for civil cases, prepares notices and citations, and maintains records associated with the cases filed before this court. Civil cases usually involve disputes between two or more parties (persons or businesses) where one party (the plaintiff) brings suit against another (the defendant) and asks the court to enforce a private right or to require the defendant to pay for some civil wrong done to the plaintiff. There are two civil courts that primarily hear civil cases in which the amount in contention is between \$500 and \$250,000. These courts also hear appeals from justice, municipal, and state administrative hearings.

Misdemeanor

The Misdemeanor Records Division maintains court documents and provides administrative support through the issuance of warrants, summons, subpoenas, and commitments. There are seven criminal courts (County Courts at Law #3, 4, 5, 6, 7, 8, and 9) that hear Class A and B misdemeanor offenses such as DWIs, thefts, assaults, and traffic violations.

AREAS OF CONCERN

CIVIL COURT COSTS

We reviewed all 96 civil assessments code tables in FACTS, reconciling them to the applicable statutes and the Office of Court Administration's (OCA) County Court Civil Suits and Actions reference tables. During this review, we noted six (6%) issues with these assessment tables.

First, the assessment of court costs for the four actions in the table below included a \$15 civil courthouse facility fee authorized by Government Code, Section 51.710. However, the OCA has stated that this fee applies only when a civil suit is filed and is not applicable to actions within an independent suit. In each of these cases, \$80 should have been assessed, instead of \$95.

<i>Actions within Independent Civil Suits</i>	FACTS Code	OCA Fees	FACTS Fees	Diff.
Cross Action (Cross-Claim)	1206	\$80	\$95	\$15
Interpleader	1207	\$80	\$95	\$15
Third-Party, Intervention	1208	\$80	\$95	\$15
Counterclaim	1209	\$80	\$95	\$15

Net of waivers, the civil courthouse facility fee was inappropriately assessed 601 times in the period January 1, 2014 to March 31, 2018.

Next, filings of motions for judicial review of lien/claim documentation are assessed similarly to general civil suits. According to Government Code, Sections 51.902(f) and 51.903(f), a county clerk may not collect a fee for filing this type of motion. The current assessment of \$272 (FACTS Event 1201) incorrectly includes court costs which are not applicable to these motions. FACTS Event 1201 is utilized in a number of ways, so we were unable to quantify how many of these motions were made in the period. County Clerk management has determined that no motions for judicial review of lien/claim suits were filed in the period, thus no refunds will be due.

Lastly, fraudulent lien suits are assessed similarly to general civil suits. According to Civil Practice & Remedies Code, Section 12.005, the fee for filing an action under this chapter is \$15. The current assessment of \$272 (FACTS Event 1201) incorrectly includes court costs which are not applicable to the fraudulent lien suits. County Clerk management has determined that no fraudulent lien suits were filed in the period, thus no refunds will be due.

Significance:

The County Clerk's Office is responsible for assessing, collecting, and remitting all court costs in accordance with statute. Improper assessments can result in the loss of County funds, refunds to customers, and additional work for County Clerk's Office employees who are responsible for correcting the errors in FACTS.

Recommendation:

We recommend that the County Clerk's Office make updates to the appropriate tables in FACTS to correct the issues noted above. Any funds incorrectly assessed and collected should be reviewed and accounted for/disbursed as appropriate.

Management Response:

We concur with the Auditor's recommendation and have made all necessary changes to the appropriate tables in FACTS to reflect the correct court costs. As an additional detail, we have no fraudulent lien cases in FACTS.